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DANIEL P. LIEBER

VS

MARQUIS MANAGEMENT

Docket No. 1:21-cv-968-JL

MICHAEL FRUHBEIS

December 01, 2022



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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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DANIEL P. LIEBER,

Plaintiff,

v.

MARQUIS MANAGEMENT, LLC
and SELECT DEMO SERVICES, LLC,

Defendants.

* * * * *

Docket No.
1:21-cv-968-JL

DEPOSITION OF MICHAEL FRUHBEIS

Zoom deposition taken by agreement of counsel on
Thursday, December 1, 2022, commencing at 9:31 a.m.

Court Reporter: (Via Zoom)

Michele M. Allison, LCR, RPR, CRR
LCR #93 (RSA 310-A:161-181)

1 after that, I saw just a complete change in their attitudes.

2 Q. And what do you attribute that change to?

3 A. Actually, I contribute it to some of the things
4 that I put into place to help them kind of come out of their
5 shells and be part of the team.

6 Q. And what did you do?

7 A. I did some simple things of having lunch as a team.
8 Team-building events outside of the company: Bowling, team
9 lunches.

10 I encouraged the team to speak up. I gave them
11 ownership of certain vendor -- vendor relationships in
12 certain projects that they oversaw. Gave some of them some
13 leadership roles that they never had before and allow them to
14 make decisions -- make their own decisions.

15 Q. You mentioned that you had changed some vendors
16 when you took over IT at Marquis. Can you describe those
17 vendor changes?

18 A. In what aspect? Like -- if I got rid of them...

19 Q. You mentioned that you had changed vendors.

20 A. Yes.

21 Q. Can you describe what changes you made?

22 A. I eliminated, I would say, maybe 40 to 50 percent
23 of our vendors that were current -- that we currently used,

1 based on lack of their providing support to us, as well as I
2 had vendors that could do the same thing cheaper or less
3 expensive. So I moved them over to another vendor.

4 Q. And which vendors were those?

5 A. Which vendors did I move. The vendors were --
6 let's see, off the top of my head -- I don't know the
7 specific names, but I can say -- off the top of my head, but
8 all -- any of our backup system, we used to have Beam. Now I
9 got rid of Beam and moved them to Cohesity and Rubrik.

10 We got rid of our Dell company that -- or Dell
11 computers that managed our storage and moved them over to
12 Pure Storage. There was another company that was -- I can't
13 recall their name -- that provided after-hours support when
14 our -- my team wasn't there. I eliminated that and actually
15 gave the after-hours emergency support to rotating team
16 members in my team, so they could get an extra pay and
17 actually be on call.

18 I'm sure there's many more. I just can't recall
19 them all right now.

20 MS. SHILO: Okay. I think now is probably a good
21 time for a morning break. And Lisa, while we're on the
22 break, if you could find a laptop for Mr. Watkins, that would
23 be very helpful.

1 them. It was --

2 Q. Did you approach -- sorry, go ahead.

3 A. No, I meant -- I wanted to just -- there -- her job
4 was to actually address and handle tickets.

5 Q. Did you ever speak with her about handling tickets
6 directly?

7 A. Yes.

8 Q. What was her -- what was that conversation?

9 A. I told her that her -- you know, that my
10 understanding of the position was that she needed to answer
11 tickets. She gave me the impression that, well, her role was
12 more to distribute tickets, not answer them.

13 So again, then I said, you know, I'll be addressing
14 this as I go through and do my evaluation.

15 Q. Did you ever tell her that she would be handling
16 tickets?

17 A. I did not. Well, I told her we -- I did. I told
18 her, you know, her job was to address tickets. But I did not
19 enforce it, because I was still in the evaluation period.

20 Q. Did she ever refuse to handle tickets?

21 A. Not through me, no.

22 Q. Through anyone?

23 A. What I had heard from my team members during my

1 evaluation were that tickets would come in, and she didn't
2 want to handle them. She would just push them off and assign
3 them.

4 When the phone call -- there were times when the
5 phone would ring. She wouldn't want to get the phone. So
6 she would ask someone else to get it. She tried to avoid
7 addressing tickets.

8 Q. And who made these reports to you?

9 A. Help desk team members, as well as my network
10 engineer, Irving.

11 Q. So it was Irving, Matt Tanner, Esdras, and -- I
12 always have difficulty with his name, I apologize -- Evgenii?

13 A. Evgenii.

14 Q. Evgenii.

15 A. Evgenii.

16 Q. Evgenii. Are those the correct people who raised
17 this issue to you?

18 A. Yes.

19 Q. When did they raise this issue to you?

20 A. During my evaluation of them.

21 Q. And that would have been after you started your
22 work at Marquis in February of 2021?

23 A. Yes.

1 doing now.

2 Q. And how did you assess this skill set of the
3 employees that you currently had in the department?

4 A. Well, part of it was from their resumes, but
5 realizing some of the resumes were a little bit older,
6 because they've already been there for a while, and then I
7 also assessed their needs with them, asking them what they
8 wanted to do, what they -- you know, what they -- what they
9 currently do. And then I also spoke to a few people, heads
10 of the departments.

11 Q. And who are those heads of departments that you
12 spoke with -- spoke to?

13 A. One was Ray Houle. Another one was John Kennedy.
14 So there's two there. And then I spoke to -- I also -- I
15 think those are probably the two that I spoke to at the time.

16 Q. And can you spell Ray Houle's last name?

17 A. I believe it's H-O-U-L-E.

18 Q. Okay. And on March 8th, when you made the decision
19 to eliminate -- or terminate Beth Anne Collopy's employment,
20 did you communicate that decision with anyone?

21 MS. ZACCARDELLI: Objection to the form of the
22 question.

23 A. I commuted that -- communicated that decision to

1 Scott and Chris.

2 Q. Was that by email?

3 A. I sent a -- yeah, I -- I don't know. Did I --
4 either -- yeah, I corresponded to them, maybe verbally or --
5 you're asking me if I --

6 Q. Sorry. You just said you told Scott and Chris
7 about your decision to terminate Beth Anne Collopy's
8 employment. How did you communicate that to them?

9 A. I just let them know that I wanted to do that.

10 Q. And you think that was a verbal communication?

11 A. I verbally said that to them, yes.

12 Q. What did they say in response?

13 A. They told me it's -- is that what I want to do, and
14 I said yes. And they said, it's your department.

15 Q. Did they raise any objections to terminating Beth
16 Anne Collopy's employment?

17 A. No.

18 Q. Did either of them ever make you aware that Beth
19 Anne Collopy had raised a complaint of gender discrimination?

20 A. No.

21 Q. Did you know before now that Beth Anne Collopy has
22 raised -- had raised a complaint of gender discrimination?

23 MS. ZACCARDELLI: I'm going to object to the form

1 my -- it was -- it was my decision, I guess. It's my group,
2 so I made the decision, and he was backing my decision.
3 Like, it's fine. You know, it's your group; you do what you
4 want.

5 Q. Okay. And did Mr. Watkins raise any concerns or
6 objections when you told him you were going to terminate Beth
7 Anne Collopy's employment?

8 A. No.

9 Q. Okay. Why was Beth Anne Collopy's employment
10 terminated?

11 A. I evaluated and decided to do a little -- an
12 adjustment to the team, to the -- to two positions in my
13 team.

14 Q. So it was a reorganization of your department?

15 MS. ZACCARDELLI: Objection to the form.

16 A. Yes. I made -- yes, I made some changes to the
17 structure.

18 Q. Can you describe those changes to the structure of
19 your organization?

20 A. I decided to create a new position, which was
21 having a junior person to -- full-time junior position to
22 back up the network server administrator, and then I looked
23 at adding in a person that would oversee the help desk,

1 Q. And why were you working with those three to get
2 their projects documented on paper?

3 A. I already had Irving's. I just needed what they
4 had worked on, if they were working on any projects.

5 Q. Okay.

6 A. I was trying --

7 Q. And -- go ahead.

8 A. I was just moving on to -- making sure that I had
9 all the -- you know, made sure that I had a good
10 understanding of the projects that people were working on.

11 Q. Were you working with the three of them as a group?

12 A. No. It was individual.

13 Q. And why were you asking Beth Anne for the projects
14 she was working on?

15 A. Because I asked everyone else, and I needed to get
16 a good idea of what the whole entire team was working on.

17 Q. At this point had you already decided to terminate
18 Beth Anne?

19 A. I had an idea that I needed to terminate -- or I
20 had to eliminate -- I wanted to -- I came up with my plan
21 that I wanted to -- that I was eliminating -- or adding two
22 positions and trying to do my whole entire match-up that I
23 had up on the board and everything, but I had an idea that --

1 There would be no reason for me to exclude people as we're --
2 you know, as we're working.

3 Q. Okay. What is Zendesk?

4 A. It's a help desk ticketing system.

5 Q. Do you still use that?

6 A. No.

7 Q. When was that discontinued?

8 A. About a year ago, I would say, I think.

9 Q. And if you scroll down, there are a bunch of
10 general categories. Can you identify who took over these
11 categories of projects?

12 MS. ZACCARDELLI: Objection to the form of the
13 question.

14 A. Is this the category?

15 Q. Yes.

16 A. You want me to go through every one?

17 Q. If you have to go through every one to give an
18 accurate answer, yes. But otherwise, if there are groups
19 that you can give an answer to, that would be okay as well.

20 A. Okay. JDE long username was -- Erin took care of
21 that.

22 I took on Microsoft licensing.

23 We got rid of the Zendesk and implemented a new

1 one, which Matt manages.

2 The N drive cleanup was Irving.

3 Asset management -- asset management verification
4 was the whole entire IT staff.

5 Q. Okay. And then it continues further down.

6 A. Softchoice system, software vulnerability
7 remediation, I got rid of that.

8 TeamLogic IT relationship management, got rid of
9 that.

10 MS. ZACCARDELLI: There's no question pending.

11 A. You want all these?

12 Q. Yep.

13 MS. ZACCARDELLI: There's no question.

14 A. What's the question on this?

15 Q. Who took over these duties or tasks?

16 MS. ZACCARDELLI: Objection to the form of the
17 question.

18 A. The whole -- this is all -- hold on. This was --
19 none of this was needed. So document -- under the document
20 sections, not needed.

21 Active directory cleanup. Active directory cleanup
22 was group help desk.

23 Eliminate all Windows 7 machines. We didn't have

1 any. It was already done.

2 JD Edwards account cleanup, already done. When I
3 say, "already done," this was before -- this was while Beth
4 Anne was there.

5 Licensing I took over.

6 Continue with security monitoring, also?

7 Q. Yes, for each of those categories.

8 A. This is a network function, so Irving.

9 Shared network drives, not needed.

10 The whole document IT processes documentation has
11 been completed. We haven't done anything new to it. We just
12 add to it as needed. It was already done.

13 Troubleshooting scripts, Zendesk not needed.

14 IT folder shared cleanup, not needed.

15 IT storage room, clean. Intern.

16 Mitel phone administration. Help desk does it all,
17 the help desk team.

18 We don't use Zoom Meetings anymore. That's gone.

19 And we don't have a design and roll out Marquis
20 Management intranet.

21 Q. Okay. Thank you. At the top of this email, if we
22 scroll all the way to the top, you thank Ms. Collopy for the
23 detail, and you ask her to come in on Monday to review the